

bond and all parties executing a personal indemnity agreement must be satisfactory to HUD.

(c) A mortgagee may prescribe more stringent requirements for assurance of completion than the minimum requirements provided for in this section.

§ 242.52 Construction contracts.

(a) *Awarding of contract.* A contract for the construction or substantial rehabilitation of a hospital shall be entered into by a mortgagor, with a builder selected by a competitive bidding procedure acceptable to HUD.

(b) *Form of contract.* The construction contract shall be: A lump sum form providing for payment of a specified amount; a construction management contract with a guaranteed maximum price, the final costs of which are subject to a certification acceptable to HUD; a design-build contract with terms and certification requirements acceptable to HUD; or such other form of contract as may be acceptable to HUD.

(c) *Competitive bidding.* A competitive bidding procedure acceptable to HUD must be used in the selection of bidders to perform work or otherwise provide service to the project, the costs of which are included in any form of construction contract cited in paragraph (b) of this section. Fixed equipment not included in the construction contract, and movable equipment, may be purchased by securing quotations or by using competitive bidding procedures.

[72 FR 67546, Nov. 28, 2007, as amended at 73 FR 35923, June 25, 2008]

§ 242.53 Excluded contractors.

(a) Contracts relating to the construction of the project shall not be made with any person or entity that has been excluded from participation in federal programs, including but not limited to: A general contractor, a subcontractor, or construction manager (or any firm, corporation, partnership, or association in which such contractor, subcontractor, or construction manager has a substantial interest). Before entering into contracts with any such person or entity, owners must consult the government-wide list of excluded parties, and any list of excluded parties maintained by HUD.

(b) Contracts relating to the construction of the project shall not be made with a general contractor that has an identity of interest, as defined by HUD, with the mortgagor or mortgagee.

(c) If HUD determines that a contract has been made contrary to the requirements of paragraphs (a) or (b) of this section and so notifies the mortgagee, HUD will require the contractor or construction manager to cost-certify and may require other remedial action in addition to taking enforcement action, as HUD deems appropriate.

Subpart F—Nondiscrimination and Wage Rates

§ 242.54 Nondiscrimination.

Hospital facilities financed with mortgages insured under this part must be made available without discrimination as to race, color, religion, sex, age, disability, or national origin. Hospitals must be operated in compliance with all applicable civil rights laws and regulations, including 24 CFR part 200, subpart J (Equal Employment Opportunity), and the Americans with Disabilities Act (42 U.S.C. 12101 *et seq.*). Racially restrictive covenants are per se illegal and their use is prohibited. The aforesaid provisions regarding age and sex discrimination do not affect the eligibility of hospitals for women and children.

§ 242.55 Labor standards.

(a) Projects financed under this part (except under 24 CFR 242.91) must comply with the prevailing wage rates determined under the Davis-Bacon Act (40 U.S.C. 3141 *et seq.*), and U.S. Department of Labor regulations in 29 CFR parts 1, 3, and 5 for compliance with labor standards laws, in accordance with section 212 of the Act, provided that supplemental loans under section 241 of the Act made in connection with loans insured under this part are subject to labor standards requirements in the same manner and to the same extent as mortgages insured under section 242 of the National Housing Act.

(b) The requirements stated in 24 CFR part 70 governing HUD waiver of Davis-Bacon prevailing wage rates for